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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,414	03/12/2004	Carline Smith	090-003	7051
7590	09/07/2011		EXAMINER	
Ward & Olivo Suite 300 382 Springfield Avenue Summit, NJ 07901			VETTER, DANIEL	
			ART UNIT	PAPER NUMBER
			3628	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/800,414	SMITH, CARLINE	
	<b>Examiner</b>	<b>Art Unit</b>	
	DANIEL VETTER	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 August 2011.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) Claim(s) 1-22 is/are pending in the application.
  - 5a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 6) Claim(s) \_\_\_\_\_ is/are allowed.
- 7) Claim(s) 1-22 is/are rejected.
- 8) Claim(s) \_\_\_\_\_ is/are objected to.
- 9) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1-22 were previously pending. Claims 1 and 12 were amended in the reply filed August 26, 2011. Claims 1-22 are currently pending.

### ***Response to Arguments***

2. Applicant's amendments overcome the rejection of claims 1-22 made under § 112, first paragraph, and it is withdrawn.

3. Applicant's amendments overcome the rejection of claims 12-22 made under § 112, second paragraph, and it is withdrawn.

4. Applicant's arguments filed with respect to the rejections made under § 103(a) have been fully considered but they are not persuasive. Applicant argues that Bushold fail to teach the claimed invention because it employs an intermediary, which the invention does not require. Remarks, 12. However, the conclusion does not follow that Bushold fails to disclose what it is relied upon to teach because it teaches more elements than are set forth in the rejected claims. All positively recited elements of claim 1 for which Bushold is relied upon to teach are set forth in the citations provided. Applicant's further arguments regarding additional features present in Bushold are unpersuasive for the same reasons.

Applicant's argument that Block is not an enabling reference is unpersuasive for reasons already of record (see Final Rejection mailed October 6, 2010). A reference contains an enabling disclosure if the public was in possession of the claimed invention before the date of invention. "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his [or her] own knowledge to make the claimed invention." *In re Donohue*, 766 F.2d 531,226 USPQ 619 (Fed. Cir. 1985). In this case, based upon the level of skill displayed in the references, there is no evidence of record to support a conclusion that undue experimentation would be required to incorporate an IVR system into Bushold. The

specific factual findings set forth in the rejections below regarding the incorporation of an IVR system have not been disputed.

Applicant also argues that Block's IVR would not work with Bushold's software. Remarks, 14. However, "[c]ombining the teachings of references does not involve an ability to combine their specific structures." *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973). Accordingly, the rejections made under § 103(a) are maintained.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-10, 12-16, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushold, et al., U.S. Pat. Pub. No. 2004/0230481 (Reference A of the PTO-892 part of paper no. 20110419) in view of Block, et al., U.S. Pat. Pub. No. 2003/0055689 (Reference A of the PTO-892 part of paper no. 20081124).

7. As per claim 1, Bushold teaches a method comprising the steps of: interacting with a user via an automated system (¶ 0024); authenticating said user utilizing one or more forms of identification data provided by said user to said automated system (¶¶ 0024, 32); querying an awards database to determine whether an awards account is associated with said user (¶¶ 0024-25, 32); acquiring itinerary data from said user (¶ 0036); querying an itinerary database with said itinerary data and receiving a plurality of itineraries (¶ 0036); providing to said user said plurality of itineraries (¶ 0036); receiving from said user a selection of an initial itinerary from said plurality of itineraries (¶ 0036); querying said awards database and determining if said user's awards account contains sufficient awards for said initial itinerary (¶¶ 0029, 37); providing to said user an alternative itinerary for which said user's account contains sufficient awards (¶¶ 0036-

37; Figs. 4-5); receiving from said user a selection of said alternative itinerary (¶¶ 0036-37; Figs. 4-5); and ticketing or holding said alternative itinerary (¶ 0036).

Bushold does not teach that the system used to interact with a user is an automated interactive voice response system; which is taught by Block (¶ 0010). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself—that is, in the substitution of the automated interactive voice response system in Block for the automated systems used to interface with the user taught by Bushold. The systems share similar purposes and functions, and are both disclosed as processing the same types of user account and travel-related data. It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to incorporate an automated interactive voice response system because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results.

8. As per claim 2, Bushold in view of Block teaches claim 1 as described above. Bushold further teaches confirming said selected itinerary (¶ 0026).

9. As per claim 3, Bushold in view of Block teaches claim 1 as described above. Bushold further teaches placing said selected itinerary on hold (¶ 0026); and providing said user a reference number indicative of said itinerary (¶ 0026; Fig. 5).

10. As per claim 4, Bushold in view of Block teaches claim 1 as described above. Block further teaches said user interacts with said automated interactive voice response system utilizing vocal responses (¶ 0010); which would have been obvious to incorporate for the same reasons as in claim 1 above.

11. As per claim 5, Bushold in view of Block teaches claim 1 as described above. Block further teaches assigning seats to said user for said selected itinerary (¶¶ 0110, 290). It would have been *prima facie* obvious to one of ordinary skill in the art at the time of invention to incorporate this feature because it is merely a combination of old elements in the art of travel services. In the combination, no element would serve a purpose other than it already did independently, and one skilled in the art would have

recognized that the combination could have been implemented through routine engineering producing predictable results.

12. As per claim 7, Bushold in view of Block teaches claim 1 as described above. Bushold further teaches said itinerary data includes one or more of the group consisting of a departure date, an arrival date, a departure time, an arrival time, departure location, arrival destination, number of passengers, class of service, and seating preference (¶ 0036; Fig. 4).

13. As per claim 8, Bushold in view of Block teaches claim 1 as described above. Block further teaches said identification data is biometric data (¶¶ 0010, 186-92). It would have been *prima facie* obvious to incorporate voice data as identification data because it is the simple substitution of one type of identification data for another (i.e., the types used by Bushold). Both types of identification data are disclosed in the art as elements to properly discern the identity of a travel customer. Based upon the level of skill displayed in the references, this substitution could have been implemented through routine engineering producing predictable results.

14. As per claim 9, Bushold in view of Block teaches claim 8 as described above. Block further teaches that the identification data is voice data (¶¶ 0192, 223); which would have been obvious to incorporate for the same reasons as in claim 8 above.

15. As per claim 10, Bushold in view of Block teaches claim 1 as described above. Bushold further teaches wherein said identification data is at least one of the group consisting of a user's name, a personal identification number, a social security number, a telephone number, a birth date, and a frequent flyer number (¶¶ 0010, 32).

16. As per claim 12, Bushold teaches a method comprising the steps of: interacting with a user via an automated system (¶ 0024); authenticating said user utilizing one or more forms of identification data provided by said user to said automated system (¶¶ 0024, 32); utilizing said identification data to access an awards account (¶¶ 0024, 32); querying an awards database to determine whether an awards account is associated with said user (¶¶ 0024-25, 32); acquiring itinerary data from said user (¶ 0036); querying an itinerary database with said itinerary data (¶ 0036); providing to said user

one or more itineraries (¶ 0036); prompting said user to select an initial itinerary from said plurality of itineraries (¶ 0036); querying an awards database to determine if said user's awards account contains sufficient awards for said itinerary (¶¶ 0029, 37); providing to said user an alternative itinerary for which said user's account contains sufficient awards (¶¶ 0036-37; Figs. 4-5); receiving from said user a selection of said alternative itinerary (¶¶ 0036-37; Figs. 4-5); prompting said user to ticket or hold said selected itinerary (¶¶ 0026, 37); ticketing or holding said itinerary (¶ 0036).

Bushold does not teach prompting said user to enter baggage data; acquiring baggage data from said user; and querying a baggage database with said baggage data for information in said baggage database; which are taught by Block (¶¶ 0289-92). It would have been *prima facie* obvious to one of ordinary skill in the art at the time of invention to incorporate this feature because it is merely a combination of old elements in the art of travel services. In the combination, no element would serve a purpose other than it already did independently, and one skilled in the art would have recognized that the combination could have been implemented through routine engineering producing predictable results. Bushold also does not teach that the system used to interact with a user is an automated interactive voice response system; which is taught by Block (¶ 0010). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself—that is, in the substitution of the automated interactive voice response system in Block for the automated systems used to interface with the user taught by Bushold. The systems share similar purposes and functions, and are both disclosed as processing the same types of user account and travel-related data. It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to incorporate an automated interactive voice response system because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results.

Examiner also notes that in the reply filed August 13, 2009, Applicant traversed the restriction of claims 1-11 from claims 12-22 by setting forth that the inventions are

obvious variants of each other. The additions to claim 12 contained the same limitations as the additions to claim 1 in the replies filed February 5, 2010, February 12, 2011, and August 26, 2011. As such, Applicant's statement on the record clearly indicates claims 12-22 are not patentably distinct from claims 1-11 rejected above, and are therefore rejected on the same grounds for the same reasons.

17. As per claims 13-16 and 18-21, Bushold in view of Block teaches the elements of analogous claims 2-5 and 7-10 (see citations and obviousness rationale for claims 2-5 and 7-10 above).

18. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushold, et al. in view of Block, et al. as applied to claims 1 and 12 above, further in view of Trader, et al., U.S. Pat. No. 5,854,837 (Reference B of the PTO-892 part of paper no. 20070406).

19. As per claims 6 and 17, Bushold in view of Block teaches claims 1 and 12 as described above. Bushold in view of Block does not teach that the user is transferred to an operator upon request; which is taught by (col. 1, line 23). It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to incorporate the user is transferred to the operator upon request in order to give the user additional help or information (as taught by Trader; col. 1, line 24). Moreover, this is merely a combination of old elements in the art of providing telephonic services. In the combination no element would have served a function other than it already did independently, and one skilled in the art would have recognized that the combination could be implemented through routine engineering producing predictable results.

20. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushold, et al. in view of Block, et al. as applied to claims 1 and 12 above, further in view of Lambert, et al., U.S. Pat. No. 6,282,649 (Reference D of the PTO-892 part of paper no. 20070406).

21. As per claims 11 and 22, Bushold in view of Block teaches claims 1 and 12 as described above. Bushold in view of Block does not explicitly teach said awards

database is a look-up table; which is taught by Lambert (col. 1, line 58). It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to incorporate said awards database is a look-up table in order to identify a user and his/her access authority (as taught by Lambert; col. 1, lines 58-60). Moreover, this is merely the simple substitution of one type of database (the LUT in Lambert) for another (the database in Bushold), that could have been implemented through routine engineering producing predictable results.

***Conclusion***

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday - Thursday 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL VETTER/  
Examiner, Art Unit 3628